

percent (1,259,416 cubic feet) had exceeded their authorized disposal date.

With the continuing growth of these records, and the acceptance of new temporary records, including those from military base and installation closures and other downsizing Government agencies, the records center system can no longer absorb the cost of storing and servicing records that have exceeded their authorized disposal date.

Moreover, agencies have no incentive under the present system to avoid either retaining these records indefinitely or retaining a broader category or greater number of records than is strictly necessary.

Proposed NARA Action

To alleviate this problem and to enable NARA to continue to offer quality storage and service for temporary records that have not yet reached their disposal date, NARA proposes to amend 36 CFR 1228.54(g) to require reimbursement for records maintained in Federal records centers that have exceeded their authorized disposal date. NARA also proposes to amend 36 CFR 1228.32, which provides procedures for changing retention periods of series of records, to state that agencies should not request to change the scheduled retention period for records needed beyond their normal retention periods for temporary administrative purposes.

Agencies who do not wish to negotiate an agreement for reimbursement will be required to arrange and pay for the return of the records to the agency. Upon publication of this proposed rule, NARA will notify all agencies that currently have temporary records otherwise eligible for immediate disposal in Federal records center space.

We intend that the fee for the storage and service of temporary records retained beyond their scheduled disposal date will become effective on January 1, 1996. For the period from January 1 through September 30, 1996, the fee will be approximately \$1.60 per cubic foot. The fee may be adjusted in subsequent fiscal years based on increases in rent and other overhead costs.

This rule is a significant regulatory action under E.O. 12866 of September 30, 1993 and has been reviewed by OMB. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1228

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend 36 CFR part 1228 as follows:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. chapters 21, 29, and 31.

2. Section 1228.32 is revised to read as follows:

§ 1228.32 Request to change disposition authority.

(a) Agencies desiring to change the approved retention period of a series or system of records shall submit an SF 115. Disposition authorities contained in approved SFs 115 are automatically superseded by approval of a later SF 115 applicable to the same records unless the later SF 115 specified an effective date. Agencies submitting revised schedules shall indicate on the SF 115 the relevant schedule and item numbers to be superseded, the citation to the current printed records disposition schedule, if any, and/or the General Records Schedules and item numbers that cover the records.

(b) Agencies proposing to change the retention period of a series or system of records shall submit with the SF 115 an explanation and justification for the change. The need to retain records longer than the retention period specified in the disposition instructions on an approved SF 115 for purposes of audit, investigation, litigation, or any other administrative purpose that justifies the temporary extension of the retention period shall be governed by the procedures set forth in § 1228.54. Agencies shall not submit an SF 115 to change the retention period in such cases.

3. Section 1228.54(g) is revised to read as follows:

§ 1228.54 Temporary extension of retention periods.

* * * * *

(g) Except when NARA agrees to continue to store and service records on a reimbursable basis, agencies shall remove from Federal records centers at the agency's expense records that, because of court order, investigation, audit, study, or any other administrative reason the agency wishes to retain longer than the scheduled retention period for the records. The removal of records must be accomplished within 60 days of the date of the notification from the Federal records center that the retention period has expired. Agencies that wish to establish an agreement or

inquire about their records should write to NARA, Office of Federal Records Centers (NC), 8601 Adelphi Road, College Park, MD 20740-6001.

Dated: September 5, 1995.

John W. Carlin,

Archivist of the United States.

[FR Doc. 95-23818 Filed 9-25-95; 8:45 am]

BILLING CODE 7515-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[GA-95-01-FRL-5303-4]

Clean Air Act Proposed Interim Approval of Operating Permits Program; Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes interim approval of the Operating Permits Program submitted by the Georgia Department of Natural Resources, Environmental Protection Division (EPD) for the purpose of complying with Federal requirements which mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

DATES: Comments on this proposed action must be received in writing by October 26, 1995.

ADDRESSES: Written comments on this action should be addressed to Carla E. Pierce, Chief, Air Toxics Unit/Title V Program Development Team, Air Programs Branch, at the EPA Region 4 office listed below. Copies of the State's submittal and other supporting information used in developing the proposed interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Air Programs Branch, Region 4, 345 Courtland Street, NE, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Yolanda Adams, Title V Program Development Team, Air Programs Branch, Air, Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 347-3555, Ext. 4149.

SUPPLEMENTARY INFORMATION:**I. Background and Purpose****A. Introduction**

As required under title V of the Clean Air Act Amendments (sections 501–507 of the Clean Air Act (“the Act”)), EPA has promulgated rules which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires states to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that states develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. If the state’s submission is materially changed during the one-year review period, 40 CFR 70.4(e)(2) allows EPA to extend the review period for no more than one year following receipt of the additional material. EPA received EPD’s title V operating permit program submittal on November 12, 1993. The State provided EPA with additional material in supplemental submittals dated June 24, 1994, November 14, 1994, and June 5, 1995. Because these supplements materially changed the State’s title V program submittal, EPA has extended the review period and will work expeditiously to promulgate a final decision on the State’s program.

The EPA’s program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval from a period of up to 2 years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal program.

B. Federal Oversight and Sanctions

If EPA were to finalize this proposed interim approval, it would extend for two years following the effective date of final interim approval, and could not be renewed. During the interim approval period, the State of Georgia would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a federal permits

program for Georgia. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the 3-year time period for processing the initial permit applications.

Following final interim approval, if Georgia failed to submit a complete corrective program for full approval by the date 6 months before expiration of the interim approval, EPA would start an 18-month clock for mandatory sanctions. If the State of Georgia then failed to submit a corrective program that EPA found complete before the expiration of that 18-month period, EPA would be required to apply one of the sanctions in section 179(b) of the Act, which would remain in effect until EPA determined that EPA had corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator found a lack of good faith on the part of the State of Georgia, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that Georgia had come into compliance. In any case, if, six months after EPA applied the first sanction, the State of Georgia had not submitted a revised program that EPA had determined corrected the deficiencies that prompted disapproval, a second sanction would be required.

If, following final interim approval, EPA were to disapprove Georgia’s complete corrective program, EPA would be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date Georgia had submitted a revised program and EPA had determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator found a lack of good faith on the part of the State of Georgia, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that Georgia had come into compliance. In all cases, if, six months after EPA applied the first sanction, the State of Georgia had not submitted a revised program that EPA had determined corrected the deficiencies that prompted disapproval, a second sanction would be required.

In addition, discretionary sanctions may be applied where warranted any time after the end of an interim approval period if Georgia has not timely submitted a complete corrective program or EPA has disapproved a

submitted corrective program. Moreover, if EPA has not granted full approval to Georgia’s program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a Federal permits program for the State of Georgia upon interim approval expiration.

II. Proposed Action and Implications**A. Analysis of State Submission**

EPA has concluded that the operating permit program submitted by Georgia substantially meets the requirements of title V and part 70, and proposes to grant interim approval to the program. For detailed information on the analysis of the State’s submission, please refer to the Technical Support Document (TSD) contained in the docket at the address noted above.

1. Support Materials

Pursuant to section 502(d) of the Clean Air Act as amended (1990 Amendments), the Governor of each state must develop and submit to the Administrator an operating permits program under State or local law or under an interstate compact meeting the requirements of title V of the Act. Georgia submitted, under the signature of Governor Zell Miller, the operating permits program, prepared by the EPD, to be implemented in all areas of the State of Georgia.

The EPD submittal, provided as Section 1—“Program Description”, addresses 40 CFR 70.4(b)(1) by describing how the EPD intends to carry out its responsibilities under the part 70 regulations. This program description has been deemed to be appropriate for meeting the requirement of 40 CFR 70.4(b)(1).

Pursuant to 40 CFR 70.4(b)(3), the Governor is required to submit a legal opinion from the attorney general (or the attorney for the State air pollution control agency that has independent legal counsel) demonstrating adequate authority to carry out all aspects of a title V operating permits program. The State of Georgia submitted a legal opinion from Michael J. Bowers, Attorney General of the State of Georgia, demonstrating adequate legal authority to carry out the issuance of permits to all sources subject to the requirements of the part 70 regulations, and to promulgate regulations in compliance with applicable State and Federal laws. This opinion including a supplement to the opinion adequately addresses the thirteen provisions listed at 40 CFR 70.4(b)(3)(i)–(xiii).

Section 70.4(b)(4) requires the submission of relevant permitting program documentation not contained in the regulations, such as permit application forms, permit forms and relevant guidance to assist in the implementation of the permit program. Section 4 of the EPD submittal includes the permit application form with instructions, and a permitting procedures manual as guidance to assist in the implementation of the permit program. In addition, an updated permit application was included in the November 14, 1994, supplemental submittal. It has been determined that the application forms and permitting procedures manual substantially meet the requirements of 40 CFR 70.5(c).

2. Regulations and Program Implementation

The State of Georgia has submitted Rule 391-3-1-.03(10), "Title V Operating Permits," and Rule 391-3-1-.03(9), "Permit Fees," for implementing the State part 70 programs as required by 40 CFR 70.4(b)(2). Sufficient evidence of their procedurally correct adoption was included in Section 2 of the submittal. Copies of all applicable State statutes and regulations which authorize the part 70 program, including those governing State administrative procedures, were submitted with the State's program.

The Georgia operating permits regulations closely follow the Federal part 70 regulations. Georgia's program meets the following requirements set out in the part 70 program. These requirements are addressed in Georgia's Rule 391-3-1-.03(10) as follows: (A) Applicability requirements (40 CFR 70.3(a)), Rule 391-3-1-.03(10)(b); (B) Permit applications (40 CFR 70.5), Rule 391-3-1-.03(10)(c); (C) Provisions for permit content (40 CFR 70.6), Rule 391-3-1-.03(10)(d); (D) Provisions for permit issuance, renewals, reopenings and revisions, including public participation (40 CFR 70.7), Rule 391-3-1-.03(10)(e); and (E) Permit review by EPA and affected States (40 CFR 70.8), Rule 391-3-1-.03(10)(f). The Georgia Air Quality Act, Official Code of Georgia Annotated (OCGA) sections 12-9-12, 12-9-13, 12-9-14, 12-9-23, and 12-9-24, satisfy the requirements of 40 CFR 70.11, for enforcement authority.

The Georgia program in Rule 391-3-1-.03(10) substantially meets the requirements of 40 CFR 70.4(b)(12) with regard to operational flexibility. Any state that seeks to administer a program under part 70 is required by § 70.4(b) to submit a plan which contains provisions to allow for changes within a permitted facility without requiring a

permit revision provided that the facility provides the Administrator and the permitting authority with written notification in advance of the proposed changes, which shall be a minimum of 7 days. Section 70.4(b)(12)(iii)(A) states that the written notification shall state when the changes will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit. In addition, § 70.4(b)(12)(iii)(B) states that the permit shield may extend to terms and conditions that allow such increases and decreases in emissions. Georgia Rule 391-3-1-(10)(d)1.(ii) allows for a permit to include terms and conditions allowing for trading of emissions changes in the permitted facility solely for the purpose of complying with a Federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements; however, it does not provide for the notification requirements and permit shield extension found in § 70.4(b)(12)(iii). Therefore, as a condition of full approval, this rule must be revised to provide for the notification requirements and the permit shield extension in part 70.

Section 70.4(b)(2) requires states to include in their part 70 programs any criteria used to determine insignificant activities or emission levels for the purposes of determining complete applications. Section 70.5(c) states that an application for a part 70 permit may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate appropriate fee amounts. Section 70.5(c) also states that EPA may approve, as part of a state program, a list of insignificant activities and emissions levels which need not be included in permit applications. Under part 70, a state must request and EPA may approve as part of that state's program any activity or emission level that the state wishes to consider insignificant.

The EPD provided its current permit exemption list found in Rule 391-3-1-.03(6) as its list of insignificant activities. Rule 391-3-1-.03(6) states that these exemptions may not be used to lower the potential to emit below "major source" thresholds or to avoid any "applicable requirement". This provision ensures that listed facilities, units, or activities do not interfere with the determination of applicable requirements or the determination of whether or not a source is major under the Act. In addition, Georgia Rule 391-3-1-.03(10)(c)2. incorporates 40 CFR 70.5(c) by reference, thereby ensuring

that an application for a part 70 permit does not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate appropriate fee amounts. However, Georgia's rule exempts source activities from permitting, rather than from the obligation of including the activity in the permit application.

Georgia's exemption rule does not make a distinction among activities which can be omitted from permit applications and those which are still considered insignificant but which must be listed in the permit application. In addition, the EPD rule exempts facilities from listing pollutants in the permit application, rather than exempting the activity itself. The approaches mentioned above found in Georgia's exemptions rule are not consistent with the insignificant activities approach in part 70; therefore, EPA cannot propose full approval of Georgia's exemptions list as the basis for determining insignificant activities.

Part 70 of the operating permits regulations requires prompt reporting of deviations from the permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. Although the permit program regulations should define prompt for purposes of administrative efficiency and clarity, an acceptable alternative is to define prompt in each individual permit. EPA believes that prompt should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given that this is a distinct reporting obligation under 40 CFR 70.6(a)(3)(iii)(A). Although Georgia Rule 391-3-1-.03(10)(d)1.(1) adopts part 70.6(a) by reference, it does not define prompt within the regulation. Where "prompt" is defined in the individual permit but not in the program regulations, EPA may veto permits that do not require sufficiently prompt reporting of deviations.

Rule 391-3-1-.05, allows the EPD discretion to grant relief from compliance with State rules and regulations under certain conditions. The EPA regards Rule 391-3-1-.05 as wholly external to the program submitted for approval under part 70, and consequently proposes to take no

action on these provisions of State and local law in this rulemaking. The EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a Federally enforceable part 70 permit, except where such relief is granted through procedures allowed by part 70. In other words, a variance does not affect the title V source until the title V permit is modified pursuant to the procedures in part 70. EPA reserves the right to enforce the terms of the part 70 permit where the permitting authority purports to grant relief from the duty to comply with a part 70 permit in a manner inconsistent with part 70 procedures. A part 70 permit may also incorporate, via part 70 permit issuance or modification procedures, the schedule of compliance set forth in a variance. However, EPA reserves the right to pursue enforcement of applicable requirements notwithstanding the existence of a compliance schedule in a permit to operate. This is consistent with 40 CFR 70.5(c)(8)(iii)(C), which states that a schedule of compliance "shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based."

The complete Georgia operating permits program submittal and the TSD are available for review for more detailed information. The TSD contains the detailed analysis of Georgia's program and describes the manner in which the State's program meets all of the operating permit program requirements of 40 CFR part 70.

3. Permit Fee Demonstration

Section 502(b)(3) of the Act requires that each permitting authority collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V operating permits program. Each title V program submittal must contain either a detailed demonstration of the fee adequacy or a demonstration that aggregate fees collected from title V sources meet or exceed \$25 per ton per year (Consumer Price Index (CPI) adjusted from 1989). The \$25 per ton amount is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the "presumptive minimum."

The EPD elected to adopt the "presumptive minimum" of \$25/ton (annually adjusted by the CPI), for each regulated pollutant whose emissions are above the threshold for that pollutant, except carbon monoxide. EPD's title V fee will be assessed on the first 4,000 tons per regulated pollutant per facility. In addition, Georgia has demonstrated

that the fees collected will be sufficient to administer the program.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and/or Commitments for Section 112 Implementation

Georgia has demonstrated in its title V program submittal broad legal authority to incorporate into permits and enforce all applicable requirements. This legal authority is contained in Georgia's enabling legislation and in regulatory provisions defining "applicable requirements" and stating that the permit must incorporate all applicable requirements. Georgia has further supplemented its broad legal authority with a commitment to "take action, following promulgation by EPA of regulations implementing section 112 of title III of the Clean Air Act to either incorporate such new or revised provisions by reference into State rules or submit State-drafted rules, for EPA approval, to implement these provisions." EPA has determined that this commitment, in conjunction with Georgia's broad statutory and regulatory authority, adequately assures compliance with all section 112 requirements. EPA regards this commitment as an acknowledgement by Georgia of its obligation to obtain further regulatory authority as needed to issue permits that assure compliance with section 112 applicable requirements. This commitment does not substitute for compliance with part 70 requirements that must be met at the time of program approval.

EPA is interpreting the above legal authority and commitment to mean that Georgia is able to carry out all section 112 activities. For further rationale on this interpretation, please refer to the Technical Support Document accompanying this proposed interim approval.

b. Implementation of Section 112(g) Upon Program Approval

EPA issued an interpretive notice on February 14, 1995 (60 FR 8333), which outlines EPA's revised interpretation of section 112(g) applicability. The notice postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretative notice explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states time to adopt rules implementing the Federal rule, and that

EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Georgia must have a Federally enforceable mechanism for implementing section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations.

EPA is aware that Georgia lacks a program designed specifically to implement section 112(g). However, Georgia does have a preconstruction review program that can serve as an adequate implementation vehicle during the transition period because it would allow the State to select control measures that would meet the maximum achievable control technology (MACT), as defined in section 112, and incorporate these measures into a Federally enforceable preconstruction permit.

For this reason, EPA proposes to approve the use of Georgia's preconstruction review program found in Rule 391-3-1-.03, under the authority of title V and part 70, solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between section 112(g) promulgation and adoption of a State rule implementing EPA's section 112(g) regulations. Although section 112(l) generally provides authority for approval of state air programs to implement section 112(g), title V and section 112(g) provide for this limited approval because of the direct linkage between the implementation of section 112(g) and title V. The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purpose of any other provision under the Act (e.g., section 110). This approval will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. The duration of this approval is limited to 18 months following promulgation by EPA of the section 112(g) rule to provide adequate time for the State to adopt regulations consistent with the Federal requirements.

c. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities,

adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of future section 112 standards and programs that are unchanged from the Federal rules as promulgated, and to delegate existing standards and programs under 40 CFR parts 61 and 63 for part 70 sources and non-part 70 sources.¹ Georgia has informed EPA that it intends to accept delegation of section 112 standards through adoption by reference. This program for delegation applies to both existing and future standards, and to both part 70 and non-part 70 sources. The details of the State's delegation mechanism is set forth in a letter dated June 5, 1995, submitted by Georgia as a title V program addendum.

d. Commitment To Implement Title IV of the Act

The State of Georgia developed acid rain permit rules in Rule 391-3-1-.13, which was submitted as part of the operating permits program. The State also submitted standard acid rain permit application forms which will be revised as updated forms are provided by the EPA. These rules and permit application forms meet the requirements of the acid rain program.

B. Proposed Actions

The EPA is proposing to grant interim approval to the operating permits program submitted by Georgia on November 12, 1993, and as supplemented on June 24, 1994, November 14, 1994, and June 5, 1995. If this approval is promulgated, the State must make the following changes to receive full approval: (1) revise Rule 391-3-1-(10)(d)1.(ii) to provide for the notification requirements and permit shield extension found in § 70.4(b)(12)(iii); and (2) correct all deficiencies in its insignificant activities regulation.

This interim approval, which may not be renewed, extends for a period of up

to 2 years. During the interim approval period, the State is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the State. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

As discussed previously in section II.A.4.b., EPA proposes to approve Georgia's preconstruction review program found in Rule 391-3-1-.03, under the authority of title V and part 70 solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between 112(g) promulgation and adoption of a State rule implementing EPA's section 112(g) regulations.

In addition, as discussed in section II.A.4.c., EPA proposes to grant approval under section 112(l)(5) and 40 CFR 63.91 to the State's program for receiving delegation of future section 112 standards and programs that are unchanged from Federal rules as promulgated. Additionally, EPA is proposing to delegate existing standards and programs under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 and non-part 70 sources.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the State's submittal and other information relied upon for the proposed interim approval are contained in docket number GA-95-01 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed interim approval. The principal purposes of the docket are:

(1) to allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) to serve as the record in case of judicial review. The EPA will consider any comments received by October 26, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 15, 1995.

John H. Hankinson, Jr.,

Regional Administrator.

[FR Doc. 95-23839 Filed 9-25-95; 8:45 am]

BILLING CODE 6560-50-M

¹ The radionuclide National Emission Standards for Hazardous Air Pollutant (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of "major" for radionuclide sources. Therefore, until a major source definition for radionuclide is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. The EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.